



Federal Communications Commission
Washington, D.C. 20554

JAN 29 1998

97-192

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JAN 29 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

The Honorable John Breau
United States Senate
516 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Breau:

Thank you for your letter dated December 8, 1997, on behalf of your constituent, Joan Becnel, Secretary of the St. Charles Parish Council, concerning the placement and construction of facilities for the provision of personal wireless services and radio and television broadcast services in her community. Your constituent's letter refers to issues being considered in three proceedings that are pending before the Commission. In MM Docket No. 97-182, the Commission has sought comments on a Petition for Further Notice of Proposed Rule Making filed by the National Association for Broadcasters and the Association for Maximum Service Television. In this proceeding, the petitioners ask the Commission to adopt a rule limiting the exercise of State and local zoning authority with respect to broadcast transmission facilities in order to facilitate the rapid build-out of digital television facilities, as required by the Commission's rules to fulfill Congress' mandate. In WT Docket No. 97-192, the Commission has sought comment on proposed procedures for reviewing requests for relief from State and local regulations that are alleged to impermissibly regulate the siting of personal wireless service facilities based on the environmental effects of radio frequency emissions, and related matters. Finally, in DA 96-2140 and FCC 97-264, the Commission twice sought comments on a Petition for Declaratory Ruling filed by the Cellular Telecommunications Industry Association seeking relief from certain State and local moratoria that have been imposed on the siting of commercial mobile radio service facilities.

Because all of these proceedings are still pending, we cannot comment on the merits of the issues at this time. However, I can assure you that the Commission is committed to providing a full opportunity for all interested parties to participate. The Commission has formally sought public comment in all three proceedings and, as a result, has received numerous comments from State and local governments, service providers, and the public at large. Your letter and your constituent's letter, as well as this response, will be placed in the record of all three proceedings and will be given full consideration.

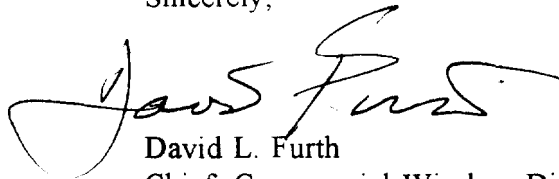
The Honorable John Breaux

2.

Further information regarding the Commission's policies toward personal wireless service facilities siting, including many of the comments in the two proceedings involving personal wireless service facilities, is available on the Commission's internet site at <http://www.fcc.gov/wtb/siting>.

Thank you for your inquiry.

Sincerely,

A handwritten signature in black ink, appearing to read "David L. Furth". The signature is fluid and cursive, with the first name "David" being more prominent and the last name "Furth" following in a similar style.

David L. Furth
Chief, Commercial Wireless Division
Wireless Telecommunications Bureau

JOHN BREAUX
LOUISIANA

MINORITY
CHIEF DEPUTY WHIP

COMMITTEES:

COMMERCE, SCIENCE, AND
TRANSPORTATION

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United States Senate

WASHINGTON, DC 20510 1993

December 8, 1997

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W 15
97-182
11/16/97

Mr. Dan Phythyon
Director, Office of Legislative and
Intergovernmental Affairs
Federal Communications Commission
Room 808
1919 M Street, N.W.
Washington, DC 20554

Dear Mr. Phythyon:

I have been contacted by the St. Charles Parish Council regarding concerns about proposed preemption of local zoning for cellular, telephone, and television towers.

Please give the council's views and concerns of every appropriate consideration within federal guidelines. Any information you could provide responding to their concerns would be greatly appreciated. Your reply may be forwarded to the attention of Jeff Lewis.

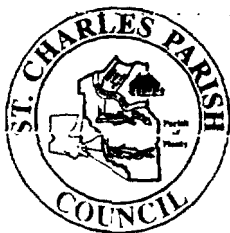
Thank you for your attention and assistance.

Sincerely,



JOHN BREAUX
United States Senator

JB/jhl
Enclosure



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PARISH OF ST. CHARLES

OFFICE OF THE COUNCIL
97 NOV 17 PM 3:54

November 6 1997 14 PM 12: 22

Honorable John B. Breaux
United States Senate
516 Hart Senate Office Building
Washington, D.C. 20510

Re: Unwarranted Acts

Dear Senator Breaux:

On Monday, November 3, 1997, the Parish Council adopted Resolution No. 4447 respectfully petitioning the Louisiana Congressional Delegation to take whatever direct action necessary to preserve and protect local zoning authority against the unwarranted acts of the Federal Communications Commission.

A copy of the resolution is enclosed for your review and consideration.

Sincerely,

Joan Becnel

JOAN BECNEL
COUNCIL SECRETARY

JB/vb

enclosure

cc: Parish Council
Mr. Randy Lewis w/enclosure
Mr. Joe Lasso w/enclosure

INTRODUCED BY: CHRIS A. TREGRE, PARISH PRESIDENT
R. O. LEWIS, DEPARTMENT OF LEGAL SERVICES

RESOLUTION NO. 4447

A Resolution to respectfully petition our
Congressional Delegation to take whatever
direct action necessary to preserve and protect
local zoning authority against the unwarranted
acts of the Federal Communications
Commission.

- WHEREAS, local power over zoning of cellular, radio and television towers was preserved and embodied in the 1996 Federal Telecommunications Act; and
- WHEREAS, this power over zoning has historically been a tool of local governments cherished by the people to protect land values and individual property rights; and
- WHEREAS, it is our belief and conviction that zoning power is best controlled by local governments without interference from State or Federal Regulators; and
- WHEREAS, it has been brought to our attention that the Federal Communications Commission is attempting to overturn the 1996 Telecommunication Control Act's preservation of local zoning authority by using the "radiation exception" rule in said Act; and
- WHEREAS, it is our belief that said actions on the part of the Federal Communications Commission violates the word and spirit of the 1996 Telecommunications Act; and
- WHEREAS, we also believe that said action has a "chilling effect" on the rights of citizens' freedom of speech and their rights to petition the government due to the fact that citizens' comments relating to radiation concerns may cause preemption by the Federal Communications Commission of local zoning; and
- WHEREAS, we believe that the Federal Communications Commission has a conflict of interest in promoting cellular towers because it has been directed by Congress to help balance the budget by selling off airways for cellular service without regard to the health, safety and welfare of United States citizens; and
- WHEREAS, we believe that the Congress of the United States should take direct action to curb any attempt by the Federal Communications Commission to usurp, preempt or otherwise interfere with local zoning control over cellular, radio and television towers.